

## **REMARKS**

### **1. Claims Amendments.**

Claim 1 has been amended to include subject matter from Claim 22 and to rephrase the claim language to read better. No new matter has been added.

Claims 2-12 have been amended to rephrase the claim language better. No new matter has been added.

Claim 13 has been amended to include subject matter from Claim 15 and to rephrase the claim language to read better. No new matter has been added.

Claim 14 has been amended to rephrase the claim language better. No new matter has been added.

Claim 15 has been cancelled without prejudice.

Claims 16-23 have been amended to rephrase the claim language better. No new matter has been added.

New Claims 24-25 are analogous to Claim 23 and recoup the subject matter removed in the amendment to Claim 23. No new matter has been added.

### **2. 35 USC 112 Rejections.**

Claims 20-23 have been rejected based on the Examiner's question as to whether the inner drum is driven/rotated concurrently during loading or sequentially after loading. In fact, the inner drum can be and is driven/rotated during loading, so the claim language is correct. Unlike in many clothes washing machines and dryers, which stop rotating when the access door is opened for laundry to be loaded or unloaded, in the present invention, the inner drum can rotate while it is being loaded with laundry.

The present invention has two axes intersecting at right angles, namely the rotation axis (11) and the pivot axis (27). The outer drum can be pivoted with the inner drum about the pivot axis from the loading position into the unloading position, and vice versa. Only the inner drum is driven about the rotation axis (11) when the laundry is treated (e.g. washed). The feature of Claim 20 is that the inner drum is driven in rotation also during loading.

### **3. 35 USC 102(b) Rejections.**

Claims 1-6, 8, 11-12, and 20 have been rejected under 35 USC 102(b) by German Patent No. 1,642,075 to Herbertz (Herbertz '075). Applicant requests reconsideration and withdrawal of this ground for rejection as Herbertz '075 does not anticipate the present invention as claimed. Claims 1 and 20 are independent claims. Claims 2-6, 8, and 11-12 are dependent claims depending directly or ultimately from Claim 1. Initially, As Applicant has combined features from Claim 22 into Claim 1, Applicant submits that on its face, Herbertz '075 does not anticipate Claim 1.

Applicant submits that Herbertz '0745 does not anticipate any of the claims. Herbertz '075 discloses a disinfecting washing machine with a rotating inner drum and a stationary outer drum. For the purpose of loading and unloading the outer drum with the inner drum arranged within, the inner drum can tilt about two different pivots (6, 7). For unloading, the outer drum is tilted along with the inner drum about one pivot (6). For loading, the outer drum is tilted along another pivot (7).

To the contrary, in the present invention the outer drum along with the inner drum can be pivoted about a common pivot axis (27) for the purpose of loading and well as for unloading. This is possible because the pivot axis (27) intersects the rotation axis (11) of the inner drum at a right angle. See page 11, line 34 to page 12, line 3 of the present specification.

Herbertz '075 mentions that disinfecting washing machines are known in the art in which the loading port for loading laundry points upwards while the inner drum is driven in rotation. See Herbertz '075, page 1, second paragraph. In the present invention, as claimed generally in independent Claim 20 and more specifically in dependent Claim 22, which depends from independent Claim 20, the inner drum is inclined to such an extent during the loading of the laundry that the laundry essentially falls only to the bottom region of the inner drum opposite the opening. This is important in order that the laundry is equally distributed in the inner drum. As a result, this procedure avoids any load imbalance that may arise when the rotational velocity of the inner drum is increased after loading.

To anticipate a claim, the cited reference must disclose each element or step of the claim. None of the cited art discloses each element of the current independent

claims. More specifically, to properly anticipate Applicant's invention, as claimed, under 35 USC §102, each and every element of the claim in issue must be found, "either expressly or inherently described, in a single prior art reference." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 USPQ2d 1081 (Fed. Cir. 1986); see also *verdegall Bros. V. Union Oil Co. of California*, 814 F2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The absence of one element in the claim in issue from the cited prior reference negates anticipation. See *Atlas Powder Co. v. E.I. du Pont de Nemours & Co.*, 224 USPQ2d 409 (Fed Cir. 1984). Anticipation was intended to apply in this limited situation in which one prior art reference incorporates **all** of the elements of a claim in a subsequent invention because the nonobvious standard was intended to cover broader obvious leaps from a reference to a claim or from combined references to a claim. See *Titanium Metals Corp. v. Brenner*, 227 USPQ 773 (Fed. Cir. 1985). This is not the case when Herbertz '075 is compared to the current claims of the present patent application.

As Herbertz '075 does not disclose each and every element of the independent claims currently pending in the present patent application, it cannot anticipate Claims 1 and 20 under 35 USC 102(b). Further, as Claims 2-6, 8, and 11-12 depend directly or ultimately from Claim 1, Herbertz '075 cannot anticipate the remaining claims. For these reasons, Applicant requests that the Examiner find the pending claims allowable over Herbertz '075.

#### **4. 35 USC 103(a) Rejections.**

Claims 21-23 have been rejected under 35 USC 103(a) over Herbertz '075. Claims 7, 9-10, and 13-19 have been rejected under 35 USC 103(a) over Herbertz '075 in view of US Patent Pub. No. 2003/0110817 to Nitschmann (Nitschmann '817). Applicant submits that the independent claims, namely Claims 1, 13, 17, and 20 now are patentable. Subject matter from Claim 22 has been incorporated into Claim 1, subject matter from Claim 15 has been incorporated into Claim 13, and Claims 17 and 20 have been rephrased to clarify the features of the invention.

For a claim to be determined obvious (or nonobvious) under 35 USC 103, the claimed material must have been obvious to person of ordinary skill in the art from the prior art. An obviousness determination requires examining (1) the scope of the *prior*

art, (2) the *level of skill* in the art, and (3) the *differences* between the prior art and Applicant's invention. *Litton Systems, Inc. v. Honeywell, Inc.*, 117 SCt 1270 (1970). To sustain a rejection under 35 USC 103, the examiner must establish a *prima facie* case of obviousness. MPEP §2142. To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143.

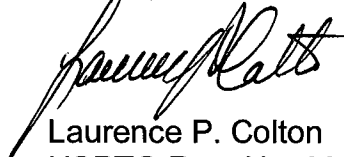
The present invention also discloses and claims the feature of an axle journal (26) of the drum housing (14), through which media employed in the wet treatment of laundry, such as detergents, can be fed. The feeding of media through the axle journal is possible with the present invention because two axle journals are assigned to the outer drum, namely for pivoting the outer drum from its loading position into the unloading position, and vice versa. This allows the axle journals to be employed for feeding media because the axle journals are able to provide access into the interior of the drum housing. By means of a flexible tube or even a rotary attachment (see Claim 16), it is possible for the media to be introduced into the drum housing through a bore hole in an axle journal without affecting in any manner the pivoting action of the outer drum containing the inner drum rotatably mounted inside.

As discussed above, Herbertz '075 does not disclose or claim the features of the present invention as currently claimed, including the axle journals. Nitschmann '817 is cited only for the disclosure of a door with a window, frame, and seals, which at most are dependent features of the present invention. However, neither Herbertz '075 nor Nitschmann '817 discloses or fairly teach the inventive features of the present invention as claimed in the independent claims. As such, Applicant submits that Claims 7, 9-10, 13-19, and 21-23 also are allowable and requests that the Examiner withdraw these grounds for rejection.

## CONCLUSION

Applicants submit that the patent application is in condition for allowance and respectfully requests such action. If the Examiner has any questions that can be answered by telephone, please contact the patent attorney of record at the telephone number listed below.

Respectfully submitted,  
SMITH, GAMBRELL & RUSSELL, LLP



Laurence P. Colton  
USPTO Reg. No. 33,371

SMITH, GAMBRELL & RUSSELL, LLP  
1230 Peachtree Street, NE, Suite 3100  
Atlanta GA 30309

Tel: 404.815.3681  
Fax: 404.685.6981  
E-Mail: lcolton@sgrlaw.com